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George L. Snyder, Jr.

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October 1, 2008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/536,567  
Applicant(s) : Ulrich Sander  
Filed : May 26, 2005  
Title : Device For Optically Viewing A Stereoscopic Observation Beam Path  
TC/A.U. : 2872  
Examiner : Mark J. Consilvio  
Docket No. : 33997.0115

**REPLY BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is in response to the Examiner's Answer mailed August 1

RESPONSIVE ARGUMENT

*The proposed combination of Nakamura with Biber does not reduce the number of parts as reasoned by the Examiner.*

Appellant responds to the Examiner's assertion that "the proposed combination does not preclude independent magnification adjustment as the Appellant has alleged."

Examiner's Answer at page 8, lines 11-12.

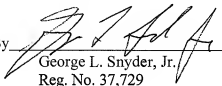
Appellant actually argues that a reason put forth by the Examiner for combining the references as proposed -- to reduce the number of parts (multiple objectives)<sup>1</sup> -- is specifically disfavored by one of the references (Nakamura). In his Answer, the Examiner relies on an outside reference (US 4,640,588 - Tanaka) as suggesting that independent magnification adjustment may be achieved, even if a common main objective is used, by providing independent zoom systems after the main objective and beam splitter. However, the addition of respective zoom systems to provide independent magnification adjustment is contrary to the Examiner's original rationale for combining Nakamura and Biber, which was to reduce parts.

Appellant urges the Board to focus on what the prior art suggested to a reader at the time of invention, as opposed to what may or may not be "precluded" by the proposed combination.

Respectfully submitted,

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<sup>1</sup> See Examiner's Answer at Page 5, lines 1-2.